APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/374,043	08/13/1999	MICHAEL D. ELLIS	UV-97	3248

7590   02/12/2003

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EXAMINER
LUU, SY D

ART UNIT	PAPER NUMBER
2174	

DATE MAILED: 02/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

-- Th MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on _25 November 2002_ .

2a) ☒ This action is **FINAL**.   2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) _1-5,14-24,33-43 and 52-56_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) _1-5,14-24,33-43 and 52-56_ is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.

    If approved, corrected drawings are required in reply to this Office action.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All b) ☐ Some * c) ☐ None of:

        1. ☐ Certified copies of the priority documents have been received.

        2. ☐ Certified copies of the priority documents have been received in Application No. _____ .

        3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

    a) ☐ The translation of the foreign language provisional application has been received.

15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .

4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

1.   This communication is responsive to the request for reconsideration filed 11/25/2002.

2.   Claims 1-5, 14-24, 33-43 and 52-56 are pending in this application. Claims 1, 14, 20, 33,

39 and 52 are independent claims. This action is made Final.

3.   The text of those sections of Title 35, U.S. Code not included in this action can be found

in a prior Office action.

Claim Rejections - 35 USC § 102

4.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> (e) the invention was described in a patent granted on an application for patent by another filed in the United
> States before the invention thereof by the applicant for patent, or on an international application by another who
> has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention
> thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999

(AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002

do not apply when the reference is a U.S. patent resulting directly or indirectly from an

international application filed before November 29, 2000. Therefore, the prior art date of the

reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA

35 U.S.C. 102(e)).

5.   Claims 1-5, 20-24 and 39-43 are rejected under 35 U.S.C. 102(e) as being anticipated by

Herz et al. ("Herz", US 6,020,883).

As per claims 1-2 and 4-5, Herz teaches a method for use in a client-server interactive television program guide system comprising: providing a user with an opportunity to define user preferences using an interactive television program guide client that is implemented on user television equipment, without requiring the user to navigate the Internet, providing the user preferences to a program guide server, and providing program guide data to the program guide client according to the user preferences, and generating a viewing recommendation based on the user preferences with the program guide server; displaying the user preferences with the interactive television program guide client on the user television equipment, providing software to the program guide client according to the user preferences, and providing Internet links to the program guide client according to the user preferences (col. 4, lines 14-17 and lines 44-61)

As per claim 3, Herz teaches the step of providing a user with an opportunity to designate a preference level for a plurality of preference attributes (col. 13, lines 39-42).

Claims 20-24 are similar in scope to claims 1-5 respectively, and are therefore rejected under similar rationale.

Claims 39-43 are similar in scope to claims 1-5 respectively, and are therefore rejected under similar rationale.

Claim Rejections - 35 USC § 103

6.   Claims 14-19, 33-38 and 52-56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herz et al. ("Herz", US 6,020,883).

As per claims 14-15, Herz teaches a method for use in a client-server interactive television program guide system for tracking a user's viewing history, comprising: tracking a

user's viewing history, storing the user's viewing history on a program guide server by storing a user defined expression with the program guide server, finding programs with the program guide server that are consistent with the user's viewing history, and indicating on user television equipment the programs found by the program guide server, with an interactive television program guide client implemented on the user television equipment (col. 25, lines 32-40 and 46-47; col. 26, lines 52-67). Herz does not explicitly disclose the programs found by the program guide server to include those that the user has not watched. However, Official Notice is given that indicating and displaying programs that users have not watched is well known in the art. It would have been obvious to an artisan at the time of the invention to include this feature with Herz's method in order to keep users informed of those programs that have not been watched.

As per claim 16, Herz teaches the step of calculating user demographic values with the program guide server (col. 4, lines 46-59).

As per claim 17, Herz further teaches the steps of:

providing a user with an opportunity to define a user preference profile with the interactive television program guide client implemented on user television equipment, storing the user preference profile on a program guide server, and finding programs with the program guide server that are consistent with the user preference profile, wherein: indicating on user television equipment the programs found by the program guide server that are consistent with the user's viewing history and that the user has not watched comprises indicating on user television equipment the programs found by the program guide server that are consistent with the user's viewing history and the user preference profile and that the user has not watched (col. 4, lines 14-17 and lines 44-61).

As per claim 18, Herz further teaches the step of: targeting advertising with the program guide server based on the user's viewing history; and displaying the advertising with the interactive television program guide client on the user television equipment (col. 29, lines 45-66).

As per claim 19, Herz teaches the step of collecting program ratings information with the program guide server based on the user's viewing history (col. 25, lines 38-42)

Claims 33-38 are similar in scope to claims 14-19 respectively, and are therefore rejected under similar rationale.

Claims 52-56 are similar in scope to claims 14 and 16-19 respectively, and are therefore rejected under similar rationale.

Response to Arguments

7.   Applicant's arguments with respect to claims 1-5, 14-24, 33-43 and 52-56 have been fully considered but they are not persuasive.

Applicants argued that the Herz system is not "client-server" based, and its program guide is a stand-alone application. The argument is based on the return path of Herz's two-way system is not used for providing a client-server communications path, i.e. the return path is not used by a guide client to request program guide data. Therefore, Herz system does not provide users with opportunities to perform various functions relating to user preferences and viewing history as recited in the claims.

The Examiner disagrees for the following reasons.

By definition, a client-server architecture is a relationship wherein a client is an application running on a computer and relies on a server running on another computer to perform some operations or to supply requested services for the client.

Herz teaches an interactive television program guide system which provides a user with an opportunity to define user preferences using an interactive television program guide client (col. 46, lines 25-30; *through the user interface provided by the set top terminal which is a client, a user interactively customizes his/her program guide preferences*) . In the Herz system, whenever a user creates/updates the customer profile and viewing habit information (*preferences/viewing history*), the information is transmitted in <u>real-time</u> to the headend, and viewing programs are determined therefrom for transmission to be in corporated into the program guides on the client (col. 46, line 25 et seq.; col. 47, line 37-51). The transmitting of the newly created or modified customer preference information will <u>always</u> result in an evaluation/re-evaluation and customizing of program data that satisfy the new/updated criteria, and appropriate new scheduling of video programming would be transmitted from the headend to the customer---thus, it is shown that a <u>request</u> for a new program guide is inherently generated from a client to a server headend. It is thus shown that Herz's real-time two-way transmission systems meets the definition of a client-server architecture.

Conclusion

8.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing

date of this final action.

Inquires

9.   Any inquiry concerning this communication or earlier communications from the
examiner should be directed to Sy Luu whose telephone number is **(703) 305-0409**. The
examiner can normally be reached on Monday - Thursday from 6:30 am to 4:00 pm (EST). The
examiner can also be reached on alternate Friday.

    If attempts to reach the examiner by telephone are unsuccessful, the examiner's
supervisor, Kristine Kincaid, can be reached on (703) 308-0640.

    The fax number for the organization where this application or proceeding is assigned are
as follows:

    (703) 746-7238 [After Final Communication]
    (703) 746-7239 [Official Communication]
    (703) 746-7240 [For status inquiries, Draft Communication]

    Any inquiry of a general nature or relating to the status of this application or proceeding
should be directed to the receptionist whose telephone number is (703) 305-3900.

SY D. LUU
PRIMARY EXAMINER